

106TH CONGRESS
2D SESSION

H. R. 4098

To require the Secretary of Labor to issue regulations specifying the application of the Occupational Safety and Health Act of 1970 to home office employment to foster 21st Century telework opportunities, to maximize public participation in the formulation of such regulations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 28, 2000

Mr. HOEKSTRA (for himself, Mr. ROEMER, Mr. NORWOOD, Mr. KIND, Mr. HILLEARY, Mr. FORD, Mr. SCHAFER, Mr. MORAN of Virginia, Mr. TANCREDO, Mr. TAYLOR of Mississippi, Mr. WOLF, Mr. GUTKNECHT, and Mr. BASS) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To require the Secretary of Labor to issue regulations specifying the application of the Occupational Safety and Health Act of 1970 to home office employment to foster 21st Century telework opportunities, to maximize public participation in the formulation of such regulations, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Home Office Worker
3 Protection Act of 2000”.

4 **SEC. 2. APPLICATION OF OCCUPATIONAL SAFETY AND**
5 **HEALTH ACT OF 1970 TO HOME OFFICE EM-**
6 **PLOYMENT.**

7 (a) REGULATIONS REQUIRED.—The Secretary of
8 Labor shall issue regulations specifying the application of
9 the Occupational Safety and Health Act of 1970 to work-
10 places located in the residence of an employee who is en-
11 gaged in—

12 (1) home office employment; or

13 (2) types of employment other than home office
14 employment.

15 (b) CONTENT.—The regulations required by sub-
16 section (a) shall include—

17 (1) a description of the types of employment
18 conducted in the residence of the employee encom-
19 passed by the term “other than home office employ-
20 ment” such as—

21 (A) the manufacture, assembly (including
22 disassembly), or processing of goods for com-
23 merce; or

24 (B) employment which requires an em-
25 ployee to be regularly exposed to a toxic or haz-
26 ardous substance in excess of an exposure limi-

1 tation specified in regulations of the Secretary
2 of Labor published at subpart Z of part 1910
3 of title 29, Code of Federal Regulations;

4 (2) a prohibition on conducting an inspection of
5 a worksite located in the residence of an employee
6 engaged in home office employment; and

7 (3) the action to be taken when a complaint or
8 referral is received by the Occupational Safety and
9 Health Administration which indicates that a viola-
10 tion of a safety or health standard exists which
11 threatens physical harm or exposes an employee to
12 an imminent danger at a worksite located in the res-
13 idence of an employee who is engaged in types of
14 employment other than home office employment.

15 (c) MAXIMIZING PUBLIC PARTICIPATION IN THE
16 FORMULATION OF IMPLEMENTING REGULATIONS.—

17 (1) NOTICE AND COMMENT RULEMAKING.—The
18 Secretary of Labor shall implement the regulations
19 required by subsection (a) by means of a rule pro-
20 mulgated pursuant to section 553 of title 5, United
21 States Code.

22 (2) FOSTERING MAXIMUM PUBLIC PARTICIPA-
23 TION.—In addition to such other means as the Sec-
24 retary deems appropriate, the Secretary shall seek to
25 maximize public participation by—

1 (A) utilizing an advance notice of proposed
2 rule making;

3 (B) announcing the publication of the ad-
4 vance notice of proposed rulemaking and the
5 proposed rule through additional means, espe-
6 cially electronic means, designed to reach af-
7 fected workers and the firms that employ them;

8 (C) making the text of the advance notice
9 of proposed rulemaking and of the proposed
10 rule available through electronic means; and

11 (D) providing not less than 60 days for
12 public comment on the proposed rule.

13 (d) REQUIRED REGULATORY SCHEDULE.—

14 (1) TIME FOR ISSUANCE OF ADVANCE NOTICE
15 OF PROPOSED RULEMAKING.—The Secretary shall
16 issue an advance notice of proposed rulemaking per-
17 taining to the formulation of regulations under sub-
18 section (a) within 30 days of the date of enactment
19 of this Act.

20 (2) ISSUANCE OF FINAL REGULATION.—The
21 Secretary shall issue the final regulations within 510
22 days of the date of enactment of this Act, specifying
23 an effective date that is 30 days after the date of
24 publication of such final regulation.

1 **SEC. 3. AMENDMENT TO OCCUPATIONAL SAFETY AND**
2 **HEALTH ACT OF 1970.**

3 (a) APPLICATION TO HOME OFFICE EMPLOY-
4 MENT.—Section 4(b) of the Occupational Safety and
5 Health Act of 1970 (29 U.S.C. 653(b)) is amended by
6 adding at the end the following:

7 “(5)(A) Except as provided in subparagraphs (B),
8 (C) and (D), nothing in this Act shall apply to home office
9 employment performed in a workplace located in the resi-
10 dence of the employee engaged in such employment.

11 “(B) Pursuant to section 8 and its implementing reg-
12 ulations, employers shall report work-related injuries and
13 illnesses sustained by an employee engaged in home office
14 employment.

15 “(C) Pursuant to sections 9 and 10, the Secretary
16 may impose sanctions for a failure of an employer to re-
17 port a work-related injury or illness sustained by an em-
18 ployee engaged in home office employment, subject to re-
19 view of such sanctions pursuant to sections 11 and 12.

20 “(D) Pursuant to section 21(c), the Secretary may
21 make available information and standards to employees
22 and employers in the recognition, avoidance, and preven-
23 tion of unsafe or unhealthful working conditions appro-
24 priate for home office employment.”.

1 (b) DEFINITION.—Section 3 of the Occupational
 2 Safety and Health Act of 1970 (29 U.S.C. 652) is amend-
 3 ed by adding at the end the following:

4 “(15) The term home office employment means
 5 providing professional, technical, clerical, or similar
 6 types of services utilizing information technology and
 7 other types of equipment used in an office work set-
 8 ting located in the residence of an employee.”.

9 (c) IMPLEMENTING REGULATIONS PROMULGATED
 10 THROUGH NOTICE AND COMMENT RULEMAKING.—The
 11 Secretary of Labor shall implement subsections (a) and
 12 (b) and the amendments made by such sections by means
 13 of a rule promulgated pursuant to section 553 of title 5,
 14 United States Code.

15 (d) CONTENT OF THE REGULATIONS.—In addition to
 16 such matters as the Secretary may deem appropriate, the
 17 regulations required by subsection (c) shall specify the ex-
 18 tent of the application of the Occupational Safety and
 19 Health Act of 1970 to workplaces located in the residence
 20 of an employee if the employee is engaged in—

21 (1) home office employment; or

22 (2) types of employment other than home office
 23 employment.

24 (e) MAXIMIZING PUBLIC PARTICIPATION IN THE
 25 FORMULATION OF REQUIRED REGULATIONS.—In addi-

tion to such other means as the Secretary deems appropriate, the Secretary shall, in promulgation of the regulations under subsection (c) of this Section, maximize public participation by —

(1) utilizing an advance notice of proposed rulemaking;

(2) announcing the publication of the advance notice of proposed rulemaking and the proposed rule through additional means, especially electronic means, designed to reach affected workers and the firms that employ them;

(3) making the text of the advance notice or proposed rulemaking and of the proposed rule available through electronic means; and

(4) providing not less than 60 days for public comment on the proposed rule.

(f) **EFFECTIVE DATES.**—If final regulations are not issued under section 2(d)(2), the amendment to the Act made by subsection (a) and the requirement to issue regulations pursuant to subsection (b) shall become effective on the date on which such final regulations were required to be issued.

SEC. 4. RULE OF CONSTRUCTION.

Nothing in this Act is intended to affect the continued effectiveness of the instruction issued by the Assistant

1 Secretary of Labor for Occupational Safety and Health,
2 identified as Occupational Safety and Health Administra-
3 tion Instruction Number CPL2-0.125, entitled “Home-
4 based Worksites”, and effective February 25, 2000, until
5 such time as regulations are issued under section 2(a) or
6 3(b).

7 **SEC. 5. DEFINITION.**

8 For purposes of section 2 of this Act, the term “home
9 office employment” means providing professional, tech-
10 nical, clerical, or similar services utilizing information
11 technology and other type of equipment used in an office
12 work setting located in the residence of an employee.

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